

BILL ANALYSIS

C.S.H.B. 1435
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law imposes various notice and report requirements on court and county clerks. Interested parties contend that in some cases, clerks are unable to comply with such requirements because they do not have access to the necessary information. C.S.H.B. 1435 seeks to address this situation by revising the duties of court and county clerks with respect to certain notices, reports, and descriptions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1435 amends the Code of Criminal Procedure to authorize a victim assistance coordinator, on request, to provide a court clerk with information or other assistance necessary for the clerk to comply with the requirement to provide notification of the release of a person acquitted by reason of insanity to the victim or the victim's guardian or close relative if the court issues an order that requires the release of that person on discharge or on a regimen of outpatient care.

C.S.H.B. 1435 amends the Family Code to remove a statutory provision making it a Class C misdemeanor offense for the clerk of a court exercising jurisdiction over a juvenile offender's case to violate the requirement to report the disposition of the case to the Department of Public Safety. The bill makes a requirement for the clerk of a court issuing a protective order involving a respondent who is a member of the state military or is serving in the U.S. military in an active-duty status to provide a copy of the order and certain information to the staff judge advocate at Joint Force Headquarters or the provost marshal of the specified military installation applicable only if the applicant or the applicant's attorney provides to the clerk of the court the mailing address of the staff judge advocate or provost marshal, as applicable.

C.S.H.B. 1435 amends the Government Code to remove the requirement for the court in an action in which a party to the litigation files a petition, motion, or other pleading challenging the constitutionality of a Texas statute to serve notice of the constitutional question and a copy of the petition, motion, or other pleading that raises the challenge on the attorney general, if the attorney general is not a party to or counsel involved in the litigation. The bill instead requires the party filing the petition, motion, or other pleading to serve the notice and the copy.

C.S.H.B. 1435 amends the Health and Safety Code to remove a statutory provision exempting the council of governments for an area in which a former municipal solid waste unit is located from the requirement to notify the owner of land that overlays the former landfill unit of the former use of the land and to notify the county clerk of the county or counties in which the former landfill unit is located of the former use. The bill removes a requirement for such a county clerk to record on the deed records of land formerly used as a municipal solid waste

landfill a description of the exact boundaries of the former landfill unit or, if the exact boundaries are not known, the best approximation of each unit's boundaries; a legal description of the parcel or parcels of land in which the former landfill unit is located; notice of the former landfill unit's former use; and notice of the restrictions on the land imposed under statutory provisions governing a regional or local solid waste management plan. The bill instead requires the notice submitted by the council of governments to the county clerk to include such descriptions and notices, requires the county clerk to record the descriptions and notices submitted by a council of governments, and authorizes the county clerk to prescribe the method of arranging and indexing the descriptions and notices. The bill requires the county clerk to make the descriptions and notices, rather than the deed records, available for public inspection.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1435 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Article 46C.003, Code of Criminal Procedure, is amended to read as follows:

Art. 46C.003. VICTIM NOTIFICATION OF RELEASE. If the court issues an order that requires the release of an acquitted person on discharge or on a regimen of outpatient care, the person designated as the victim assistance coordinator for the court under Article 56.04 ~~[clerk of the court issuing the order]~~, using the information provided on any victim impact statement received by the court under Article 56.03 or other information made available to the court, shall notify the victim or the victim's guardian or close relative of the release. ~~[Notwithstanding Article 56.03(f), the clerk of the court may inspect a victim impact statement for the purpose of notification under this article.]~~

SECTION 2. Section 58.110(c), Family Code, is amended.

SECTION 3. Section 85.042(a-1), Family Code, is amended to read as follows:

(a-1) This subsection applies only if the respondent, at the time of issuance of an

HOUSE COMMITTEE SUBSTITUTE

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Art. 46C.003. VICTIM NOTIFICATION OF RELEASE. If the court issues an order that requires the release of an acquitted person on discharge or on a regimen of outpatient care, the clerk of the court issuing the order, using the information provided on any victim impact statement received by the court under Article 56.03 or other information made available to the court, shall notify the victim or the victim's guardian or close relative of the release. Notwithstanding Article 56.03(f), the clerk of the court may inspect a victim impact statement for the purpose of notification under this article. On request, a victim assistance coordinator may provide the clerk of the court with information or other assistance necessary for the clerk to comply with this article.

SECTION 2. Same as introduced version.

SECTION 3. Section 85.042(a-1), Family Code, is amended to read as follows:

(a-1) This subsection applies only if the respondent, at the time of issuance of an

original or modified protective order under this subtitle, is a member of the state military forces or is serving in the armed forces of the United States in an active-duty status and the respondent or the respondent's attorney provides to the clerk of the court the mailing address of the staff judge advocate or provost marshal, as applicable. In addition to complying with Subsection (a), the clerk of the court shall also provide a copy of the protective order and the information described by that subsection to the staff judge advocate at Joint Force Headquarters or the provost marshal of the military installation to which the respondent is assigned with the intent that the commanding officer will be notified, as applicable.

SECTION 4. Section 402.010(a), Government Code, is amended to read as follows:

(a) In an action in which a party to the litigation files a petition, motion, or other pleading challenging the constitutionality of a statute of this state, the party filing the petition, motion, or other pleading [court] shall, if the attorney general is not a party to or counsel involved in the litigation, serve notice of the constitutional question and a copy of the petition, motion, or other pleading that raises the challenge on the attorney general either by certified or registered mail or electronically to an e-mail address designated by the attorney general for the purposes of this section. Notice under this section must identify the statute in question, state the basis for the challenge, and specify the petition, motion, or other pleading that raises the challenge.

SECTION 5. Sections 363.064(b) and (c), Health and Safety Code, are amended.

SECTION 6. The changes in law made by this Act apply only to an offense committed

original or modified protective order under this subtitle, is a member of the state military forces or is serving in the armed forces of the United States in an active-duty status and the applicant or the applicant's attorney provides to the clerk of the court the mailing address of the staff judge advocate or provost marshal, as applicable. In addition to complying with Subsection (a), the clerk of the court shall also provide a copy of the protective order and the information described by that subsection to the staff judge advocate at Joint Force Headquarters or the provost marshal of the military installation to which the respondent is assigned with the intent that the commanding officer will be notified, as applicable.

SECTION 4. Sections 402.010(a) and (c), Government Code, are amended to read as follows:

(a) In an action in which a party to the litigation files a petition, motion, or other pleading challenging the constitutionality of a statute of this state, the party filing the petition, motion, or other pleading [court] shall, if the attorney general is not a party to or counsel involved in the litigation, serve notice of the constitutional question and a copy of the petition, motion, or other pleading that raises the challenge on the attorney general either by certified or registered mail or electronically to an e-mail address designated by the attorney general for the purposes of this section. Notice under this section must identify the statute in question, state the basis for the challenge, and specify the petition, motion, or other pleading that raises the challenge.

(c) A party's [court's] failure to file or serve notice as required by Subsection (a) does not deprive the court of jurisdiction or forfeit an otherwise timely filed claim or defense based on the challenge to the constitutionality of a statute of this state.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. The changes in law made by this Act apply only to a notice, report, or description provided or filed on or after the effective date of this Act.

SECTION 8. This Act takes effect September 1, 2013.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.